

CHAPTER 3

SOLID WASTE MANAGEMENT DISTRICTS

This chapter is designed to summarize certain laws, regulations and uniform compliance guidelines relevant to solid waste management districts. Please refer to the Indiana Code and other related documents for a complete listing of laws and regulations governing solid waste management districts. See chapters 10 through 23 of this manual for additional Accounting and Uniform Compliance Guidelines.

JOINT - COUNTY DISTRICTS

Each county shall, by ordinance of the county executive:

- (1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or
- (2) designate itself as a county solid waste management district.

The executive of a county may adopt an ordinance to withdraw from a joint solid waste management district and join another established joint solid waste management district or designate itself as a county solid waste management district.

An ordinance adopted under (1) must include the approval of an agreement governing the operation of the joint district. [IC 13-21-3-1]

All of the incorporated and unincorporated territory of a county must be included in the designated county solid waste management district or the joint solid waste management district to which the county belongs. [IC 13-21-3-2]

Within thirty (30) days after adopting an ordinance establishing a joint district and approving an agreement governing the operation of the joint district, a county shall provide the Commissioner of the Indiana Department of Environmental Management with a copy of the agreement. [IC 13-21-3-3]

WITHDRAWAL OF COUNTY FROM JOINT DISTRICT

A county that is currently a member of a joint district may withdraw from that district by following the procedures described in IC 13-21-4. After withdrawing from the joint district, the county is required to (1) join a different existing joint district; (2) establish a new joint district with at least one other county; or (3) designate itself as a new single county district.

BOARD MEMBERSHIP - COUNTY DISTRICTS

Except in Lake, Marion and St. Joseph Counties, the board of a county district consists of the following members:

- (1) Two (2) members appointed by the county executive from the membership of the county executive.
- (2) One (1) member appointed by the county fiscal body from the membership of the fiscal body.
- (3) One (1) member:
 - (A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or

- (B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest population in the county.
- (4) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.
- (5) One (1) member:
 - (A) who is the executive of the city in the county that is not the municipality having the largest population in the county; or
 - (B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;
 and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.
- (6) One (1) additional member appointed by the county executive from the membership of the county executive.

If Lake County is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board or may appoint a member of the legislative body of their city to serve as a member of the board. If St. Joseph County is designated as a county district, the executives of the two (2) cities in the county having the largest populations each serve as a member of the board. If St. Joseph County is designated as a county district, the board of that county district must include the following:

- (1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.
- (2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

If Marion County is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

If Lake County is designated as a county district, the board of the district consists of the following members:

- (1) One (1) member appointed by the county executive from the membership of the county executive.
- (2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.
- (3) The executive of each second or third class city or a member of the legislative body of their city appointed by the executive.
- (4) One (1) member of the legislative body of each town appointed by the legislative body.
- (5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.
- (6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works.

If a county designated as a county district does not contain a city, and if the county executive and the county fiscal body agree, the board of district shall consist of the following nine (9) or ten (10) members:

- (1) The three (3) members of the county executive.
- (2) Two (2) members of the county fiscal body, chosen by the county fiscal body.
- (3) One (1) member of each of the town legislative bodies of the four (4) or five (5) towns in the county having the largest population, chosen by each town legislative body.

BOARD MEMBERSHIP - JOINT DISTRICTS

Except in Lake County and St. Joseph County, the board of a joint district consists of the following:

- (1) One (1) member of the county executive of each participating county.
- (2) One (1) member of the county fiscal body of each participating county.
- (3) One (1) member:
 - (A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or
 - (B) if a town is the municipality having the largest population in the county, who is appointed from the membership of the fiscal body of that town.
- (4) One (1) member of the legislative body of the municipality having the largest population in each participating county, appointed by the legislative body of that municipality.
- (5) One (1) or more members who are the executives of cities under subsection (b), if applicable.
- (6) Additional members appointed by the executive of each participating county from the membership of the executive, as permitted under IC 13-21-3-6(c).
- (7) One (1) additional member appointed by the executive of the participating county having the largest population from the membership of the executive if the appointments made under subdivisions (1) through (6) result in an even number of members.

If Lake County has joined in a joint district, the executive of the three (3) cities in the county having the largest populations each serve as a member of the board. If St. Joseph County has joined in a joint district, the executive of the two (2) cities in the county having the largest populations each serve as a member of the board.

An agreement between two (2) or more counties establishing a joint district may allow the executive of each county to appoint a certain number of additional members from the membership of the executive based upon the proportion of each county's population to the population of the entire district.

An agreement among three (3) or more counties establishing a joint district may provide that:

- (1) the membership; and
- (2) the terms of office of members;

of the board will be determined by the terms of an agreement entered into by the executive of each county governing the operation of the district. All members of a board appointed must be elected officials of a county or a municipality.

The board of a joint district established under IC 13-21-3-6(d) or IC 13-9.5-2-6(d) (before its repeal) after March 1, 1991:

- (1) must include representation from the largest municipality in each county included in the joint district as recommended by the executive of the largest municipality and approved by the legislative body of the largest municipality; and
- (2) may include representation from other municipalities in each county included in the joint district as recommended by the executive of a municipality and approved by the legislative body of the municipality.

The board of a joint district may allow a member who is appointed from:

- (1) the county executive;
- (2) a county fiscal body; or
- (3) a municipal legislative body;

to have the body on which the member serves designate an alternate member from that body to participate and exercise the right to vote with the board if the member is unable to attend a meeting. [IC 13-21-3-6]

TERM OF BOARD MEMBERS

The term of office of a member of the board of a district who is appointed from the membership of an executive, legislative, or fiscal body under this chapter is coextensive with the member's term of office on that body. The term of office of other appointed members of the board is two (2) years.

All members of the board serve at the pleasure of the appointing authority. [IC 13-21-3-8]

BOARD OFFICERS

The board shall select the following:

- (1) A chairperson and vice chairperson from the board's membership.
- (2) A controller who is not a member of the board.

If a controller selected by a board is the fiscal officer of a county or municipality, the duties of the controller under a statute or an ordinance are in addition to the duties the controller has while serving as the fiscal officer of the county or municipality. [IC 13-21-3-9]

DUTIES OF CONTROLLER

A controller selected under IC 13-21-3-9 shall do the following:

- (1) Be the official custodian of all district money and, subject to the terms of any resolution or trust indenture under which bonds are issued under IC 13-21, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.
- (2) Be responsible to the board for the fiscal management of the district.
- (3) Be responsible for the proper safeguarding and accounting of the district's money.

- (4) Issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.
- (5) Make financial reports of district money and present the reports to the board for the board's approval.
- (6) Prepare the district's annual budget.
- (7) Perform any other duties:
 - (A) prescribed by the board; and
 - (B) consistent with IC 13-21-3.

A controller selected under IC 13-21-3-9:

- (1) does not exercise any sovereign authority of the state; and
- (2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana. [IC 13-21-3-10]

PAYMENT OF CLAIMS BEFORE BOARD APPROVAL

The board may, by resolution, authorize the controller to make claim payments for:

- (1) payroll;
- (2) the state solid waste management fee imposed by IC 13-20-22-1; and
- (3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting. [IC 13-21-3-10(c)]

SIGNATURES ON CLAIMS

Only the chairperson or the chairperson's designee is required to sign claim forms. [IC 5-11-10-2]

ADVISORY COMMITTEE

The board of each district shall appoint and convene a solid waste management advisory committee of citizens not later than thirty (30) days after the board has been established. The committee must include the following:

- (1) Representatives of the solid waste management industry operating in the district.
- (2) Representatives of the environmental community and other citizens who are:
 - (A) knowledgeable about and interested in environmental issues; and
 - (B) not employed directly or indirectly by the solid waste management industry.

At least fifty percent (50%) of the members of an advisory committee must be made up of the representatives of the environmental community and other citizens. All members of the committee must be residents of the district. [IC 13-21-3-11]

DISTRICT POWERS

The powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
 - (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
 - (B) The managing or disposal of solid waste.
 - (C) The sale or other disposition of materials or products generated by the facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.
- (7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.
- (8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.
- (9) The power to sell or lease any facility or part of a facility to any person.
- (10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.
- (11) The power to enter upon property to make surveys, soundings, borings, and examinations.
- (12) The power to:
 - (A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and
 - (B) comply with the terms of the gift, grant, or loan.

- (13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) IC 13-21-3-16.

However, except as provided in IC 13-21-3-15 and IC 13-21-3-15.5, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

- (14) The power to borrow in anticipation of taxes.

- (15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

- (16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of IC 13-21.

- (17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

- (18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

- (19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

- (20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.
- (21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.
- (22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.
- (23) The power to make grants or loans of:
 - (A) money;
 - (B) property; or
 - (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of IC13-21.
- (24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:
 - (A) equipping;
 - (B) expanding;
 - (C) modifying; or
 - (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.
- (25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.
- (26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:
 - (A) the reuse and recycling of mercury in:
 - (i) mercury commodities; and
 - (ii) mercury-added products; and

(B) collection programs available to the public for:

- (i) mercury commodities; and
- (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses. [IC 13-21-3-12]

In addition to the powers granted in IC 13-21-3-12, in Vanderburgh County, a district may make grants or loans of money, property, or services to a public or private program to plant or maintain trees in an area of the district that is a right-of-way, public property, or vacant property. [IC 13-21-3-12.2]

ADDITIONAL POWERS

A board may do the following:

- (1) Enter into agreements concerning and acquire by any lawful means real property or interests in real and personal property needed for the purposes of IC 13-21-3-13 or IC 13-21-9.
- (2) Enter into financing agreements to purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve facilities.
- (3) Lease facilities to users or developers with or without an option to purchase.
- (4) Sell facilities to users or developers for consideration, which may be paid in installments or otherwise.
- (5) Make direct loans to users or developers for the cost of acquisition, construction, or installation of facilities, including real property, machinery, or equipment. If loans are made, the development bonds must be secured by the pledge of one (1) or more bonds or other secured or unsecured debt obligations of the users or developers.
- (6) Enter into agreements with users or developers to allow the users or developers to wholly or partially acquire, construct, or modify facilities to be acquired by the district.
- (7) Issue waste management development bonds under IC 13-21-9 to do the following:
 - (A) Accomplish the purposes of this section and IC 13-21-9.
 - (B) Secure payment of the development bonds as provided in IC 13-21-9.

IC 13-21-3-13 or IC 13-21-9 does not authorize the district's financing of facilities for a developer unless any agreement that exists between a developer and a user is fully disclosed to and approved by the board. [IC13-21-3-13]

RESTRICTIONS ON POWERS

The powers of a district do not include the following:

- (1) The power of eminent domain.
- (2) The power to exclusively control the collection or disposal of any solid waste or recyclables within the district by means that include the following:

- (A) Franchising.
- (B) Establishing a territory or territories within the district in which a person may provide service.
- (3) The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.
- (4) The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.
- (5) The power to issue permits for an activity that is already permitted by a state agency, except as expressly granted by statute.

If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract. These restrictions do not apply to activities conducted as part of a household hazardous waste collection and disposal project. [IC 13-21-3-14]

CONTRACTS AND AGREEMENTS FOR CONSTRUCTION OR OPERATION OF SOLID WASTE MANAGEMENT FACILITIES

Notwithstanding any other statute concerning the length, duration, and terms of contracts and agreements, a board may enter into a contract or an agreement with a person, upon terms and conditions as agreed upon, for the:

- (1) design;
- (2) construction;
- (3) operation;
- (4) financing;
- (5) ownership; or
- (6) maintenance;

of a facility for solid waste management in accordance with the requirements and conditions of this chapter.

Before or after the expiration or termination of the term or duration of a contract or an agreement entered into under this chapter or IC 13-9.5-8 (before its repeal), the board, in accordance with the requirements and conditions of this chapter, may periodically enter into amended, extended, supplemental, new, or further contracts or agreements with the same person or any other person for any purpose referred to in this chapter

A contract, including all amendments, extensions, and supplements, may not exceed a term of forty (40) years. [IC 13-21-6-1]

Notwithstanding any other statute, a contract entered into between a board and any person under this chapter may be awarded by the board by:

- (1) public bidding in compliance with IC 36-1-12; or
- (2) compliance with IC 13-21-6-3 through 13-21-6-8. [IC 13-21-6-2]

An action to contest:

- (1) the validity of a contract awarded; or
- (2) the procedure by which the contract was awarded;

must be brought within thirty (30) days following the final contract award. After that date, the contract is incontestable for any cause. [IC 13-21-6-10]

CONFERENCES, SEMINARS AND TRAINING

If a board determines that it is desirable or necessary for employees or members of the board or advisory committee to attend a conference, seminar, or training session that concerns solid waste management or related issues, the board may pay:

- (1) applicable registration fees; and
- (2) all actual expenses;

of the employees or members who attend the conference, seminar, or training session.

A board may appropriate money necessary to provide membership for the district in state and national:

- (1) civic;
- (2) educational;
- (3) professional; or
- (4) governmental;

organizations that are concerned with the betterment and improvement of solid waste management planning and practices. [IC 13-21-3-17]

ANNUAL REPORTS

The district shall prepare and file annual reports, required under IC 13-21-3-13.5, with the Department of Environmental Management, the Department of Local Government Finance and the Environmental Quality Service Council, by February 1 of the year following the year for which the report is made.

The district shall prepare and file an annual financial report, required under IC 5-11-1-4, with the State Board of Accounts. For single county districts that own a landfill, annual financial reports must be filed not later than 60 days after the close of the fiscal year. All other districts are required to file not later than 30 days after the close of the fiscal year.

GRANTS AND LOANS

The executive of a county or municipality located in a district may, with the approval of the fiscal body of the county or municipality:

- (1) grant or loan public money to the district; and
- (2) establish procedures:
 - (A) for awarding grants; and
 - (B) for the repayment of loans. [IC 13-21-3-18]

ANNUAL BUDGET

Before the board of a district may adopt an annual budget, the budget must be:

- (1) approved by the Indiana Department of Local Government Finance; and
- (2) sent to:
 - (A) the executive; and
 - (B) the fiscal body;

of each county and municipality located within the district as a matter of record. [IC 13-21-3-21]

The board of directors of a solid waste management district established under IC 13-21 or IC 13-3.5-2 (before its repeal) may conduct the public hearing regarding the district's proposed budget and its proposed tax rate and levy required under IC 6-1.1-17-3(a):

- (1) in any county of the solid waste management district; and
- (2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

COLLECTION OF FEES AND REVENUES BY COUNTY

The board of a district may contract with a county to collect fees and revenue for a board.

A contract must do all of the following:

- (1) Describe the fees and revenue that will be collected.
- (2) Describe the responsibilities of the district and the county.
- (3) Describe any collection charges that a county will impose to reimburse the county for the administrative expenses of collecting fees and revenue.
- (4) Establish the date or conditions under which the agreement expires.
- (5) Be in writing.

A contract may include other necessary or appropriate terms.

Before a contract under this section becomes effective:

- (1) the county auditor and the county treasurer must consent to the terms of the contract; and
- (2) the board of the district and the executive body for the county must approve the contract by resolution in a public meeting.

The written consent of the county auditor and county treasurer must be incorporated by reference into the resolution adopted by the county executive body.

To carry out a contract, a county executive body may establish a collection charge. The charge may not exceed the direct costs of collecting fees and revenue, including an allowance for computer reprogramming and other costs incurred to establish and maintain the collection program. Collection charges received by a county shall be deposited in the county general fund.

Revenue and fees collected by a county shall be deposited in a separate fund and distributed to the district, without an appropriation or a claim, under the terms of the contract.

A county may include a notice of the amount of fees, charges, or other revenue in a property tax notice sent to a taxpayer.

A county or the district may collect a delinquent payment in the same manner as any general debt may be collected. [IC 13-21-3-22]

FINAL DISPOSAL FEES

A board may impose fees on the disposal of solid waste in a final disposal facility located within the district. In LaPorte County, this fee may not exceed two dollars and fifty cents (\$2.50) a ton. A fee imposed by a board in other counties may not exceed:

- (1) two dollars and fifty cents (\$2.50) a ton; or
- (2) the amount of a fee imposed by the board;
 - (A) under IC 13-21-13-1; and
 - (B) in effect on January 1, 1993;

whichever is greater.

The board shall do the following:

- (1) Set the amount of fees imposed under IC 13-21-13-1 after a public hearing.
- (2) Give public notice of the hearing.

If solid waste has been subject to a district fee, the total amount of the fee that was paid shall be credited against a district fee to which the solid waste may later be subject.

Except as provided in IC 13-21-13-4, fees imposed shall be imposed uniformly on public facilities and on privately owned or operated facilities throughout the district.

A resolution adopted by a board that establishes fees may contain a provision that authorizes the board to impose a penalty of not more than five hundred dollars (\$500) per day because of:

- (1) nonpayment of fees; or
- (2) noncompliance with a condition in the resolution.

A board may not impose fees for material used as alternate daily cover pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10-20-13. [IC13-21-13-1]

SOLID WASTE MANAGEMENT FUND

A board that has imposed fees under IC 13-21-13-1 shall establish and continuously maintain a separate fund to be known as the "_____ district solid waste management fund."

All fees remitted to the district shall be deposited in the fund.

Money in the fund may be used only for the following purposes:

- (1) To pay expenses of administering the fund.
- (2) To pay costs associated with the development and implementation of the district plan.

The controller of the district shall administer the fund. Money in the fund that is not currently needed for the purposes set forth in subsection (c) shall be deposited and invested in the same manner as other county money is deposited and invested under IC 5-13. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

- (1) a county general fund; or
- (2) any other fund.

The controller of a district shall:

- (1) file an individual surety bond; or
- (2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money. [IC 13-21-13-2]

COLLECTION OF FEES

If a board imposes a fee under IC 13-21-13-1, the owner or operator of a final disposal facility located within the district is responsible for collecting fees from persons delivering solid waste to the facility. Each owner or operator may do the following:

- (1) Deduct from the fees an amount equal to one percent (1%) of the fees collected.
- (2) Retain this amount as compensation for collecting and remitting the fees.

The owner or operator shall remit the remainder of the fees the owner or operator collects during a month to the controller not later than ten (10) days after the last day of the month in which the fees are collected.

Each owner or operator of a final disposal facility shall, at the time the collected fees are remitted, furnish to the controller a fee collection report. [IC 13-21-13-3]

SOLID WASTE MANAGEMENT FEES - ESTABLISHMENT

A board:

- (1) may; and
- (2) if necessary to pay principal or interest on any bonds issued under IC 13-21 or IC 13-9.5-9 (repealed), shall;

establish solid waste management fees in addition to fees imposed under IC 13-21-13 or IC 13-9.5-7 (before its repeal) that apply to all persons owning real property or generating solid waste within the district who are benefited by solid waste management, solid waste collection, a facility for solid waste disposal, or a facility for solid waste processing.

The board may change and readjust fees as necessary.

The board may fix the solid waste management fees on the basis of the following:

- (1) A flat charge for each residence or building in use in the waste management district.
- (2) The weight or volume of the refuse received.
- (3) The average number of containers or bags of refuse received.
- (4) The relative difficulty associated with the collection or management of the solid waste received.
- (5) Any other criteria that the board determines to be logically related to the service.
- (6) Any combination of these criteria.

The collection of the fees may be effectuated through a periodic billing system.

The board may exercise reasonable discretion in adopting differing schedules of fees based upon variations in the following:

- (1) The cost of furnishing the services included within this chapter to various classes of owners of property or of generators of solid waste within the district.
- (2) The distance of the property benefited from the facility.
- (3) Any other variations the board determines to be logically related to the cost of the service.

Fees shall be established only after public notice and a public hearing before the board at which:

- (1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and
- (2) other interested persons;

have an opportunity to be heard concerning the proposed fees.

After introduction of a resolution fixing fees and before the resolution is adopted, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned as necessary.

After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect.

A copy of the schedule of fees established shall be kept:

- (1) on file in the office of the board or the controller, secretary, or other recordkeeping officer of the district; and
- (2) open to inspection by all interested persons.

The fees established extend to cover any additional territory later served that falls within the same class without the necessity of a hearing or notice.

A change or readjustment of fees may be made in the same manner as the fees were originally established.

An action to contest:

- (1) the validity of the fees adopted; or
- (2) the procedure by which the fees were adopted;

must be brought within thirty (30) days following the adoption of the fees under IC 13-21-14-5. [IC 13-21-14-1 through 6]

USE OF FEES

Fees imposed under IC 13-21-14 may be used, together with any other revenues, to pay any of the following:

- (1) The cost of facilities for solid waste management.
- (2) The operation and maintenance of facilities.
- (3) The charges that may be pledged to the payment of principal of and interest on waste management district or revenue bonds.
- (4) The costs of implementing the district's district plan. [IC 13-21-14-7]

PENALTY FOR FAILURE TO PAY FEE

If a fee established is not paid within the time fixed by the board, the amount, together with:

- (1) a penalty of twenty-five dollars (\$25); and
- (2) a reasonable attorney's fee;

may be recovered in a civil action in the name of the district. [IC 13-21-14-8]

FEES NOT PERMITTED ON TRANSFER STATIONS

A district may not exercise its authority to impose a fee on the:

- (1) owner of real or personal property that is used solely as a transfer station; or
- (2) operation of a transfer station. [IC 13-21-14-9]

OFFICIAL BOND - CONTROLLER

A controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

- (1) fixed by the board of directors of the solid waste management district; and
- (2) that is at least fifteen thousand dollars (\$15,000).

Except as provided under IC 5-4-1-18(d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors. [IC 5-4-1-18]